

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 SOUTHERN DIVISION

4 VINH NGUYEN, INDIVIDUALLY
5 AND ON BEHALF OF ALL OTHERS
6 SIMILARLY SITUATED,

7 Plaintiff,

8 v.

9
10 RADIANT PHARMACEUTICALS
11 CORPORATION AND DOUGLAS C.
12 MACLELLAN,

13 Defendants.
14

CASE No.:CV-11-0406-DOC
(MLGx)

CLASS ACTION

~~PROPOSED~~ ORDER AND
FINAL JUDGMENT [149]

1 On the 22nd day of April 2014, a hearing having been held before this
2 Court to determine: (1) whether the terms and conditions of the Stipulation and
3 Agreement of Settlement dated December 16, 2013 (the “Stipulation”) are fair,
4 reasonable and adequate for the settlement of all claims asserted by (i) the Class
5 against (ii) Defendants Radiant Pharmaceuticals Corporation (“Radiant”), and
6 Douglas C. MacLellan (“MacLellan”) (collectively, the “Radiant Defendants” or
7 “Settling Defendants”), and (2) whether to approve the proposed Plan of
8 Allocation as a fair and reasonable method to allocate the Net Settlement Fund
9 among Class Members; and

10 The Court having considered all matters submitted to it at the hearing and
11 otherwise; and

12 It appearing that the Notice substantially in the form approved by the
13 Court in the Court’s Order Preliminarily Approving Settlement and Providing
14 For Notice (“Preliminary Approval Order”) was mailed to all reasonably
15 identifiable Class Members; and

16 It appearing that the Summary Notice substantially in the form approved
17 by the Court in the Preliminary Approval Order was published in accordance
18 with that Order and the specifications of the Court;

19 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND
20 DECREED THAT:

21 1. All capitalized terms used herein have the same meanings as set
22 forth and defined in the Stipulation.

23 2. The Court has jurisdiction over the subject matter of the Litigation,
24 Lead Plaintiffs, all Class Members and the Settling Defendants.

25 3. Pursuant to the Court’s Order dated November 26, 2012, this
26 Litigation was certified as a class action on behalf of all persons who purchased
27 the publicly traded common stock of Radiant from January 18, 2011 through
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1 March 4, 2011, and who were damaged thereby (the “Class”). Excluded from the
2 Class are the Settling Defendants, the present and former officers and directors
3 of Radiant and any subsidiary thereof, members of their immediate families and
4 their legal representatives, heirs, successors or assigns and any entity in which
5 Defendants have or had a controlling interest.

6 4. The Court hereby finds that the forms and methods of notifying the
7 Class of the Settlement and its terms and conditions met the requirements of due
8 process and Rule 23 of the Federal Rules of Civil Procedure, Section 21D(a)(7)
9 of the Exchange Act, 15 U.S.C. § 78u-4(a)(7), as amended by the Private
10 Securities Litigation Reform Act of 1995; constituted the best notice practicable
11 under the circumstances; and constituted due and sufficient notice to all persons
12 and entities entitled thereto of these proceedings and the matters set forth herein,
13 including the Settlement and Plan of Allocation, to all persons entitled to such
14 notice. No Class Member is relieved from the terms of the Settlement, including
15 the releases provided for therein, based upon the contention or proof that such
16 Class Member failed to receive actual or adequate notice. A full opportunity has
17 been offered to the Class Members to object to the proposed Settlement and to
18 participate in the hearing thereon. The Court further finds that the notice
19 provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully
20 discharged. Thus, it is hereby determined that all members of the Class are
21 bound by this Order and Final Judgment except those persons listed on Exhibit
22 A to this Order and Final Judgment.

23 5. The Settlement is approved as fair, reasonable and adequate, and in
24 the best interests of the Class. Lead Plaintiffs and the Settling Defendants are
25 directed to consummate the Settlement in accordance with the terms and
26 provisions of the Stipulation.

1 6. The Litigation and the Complaint are hereby dismissed with
2 prejudice and without costs.

3 7. Lead Plaintiffs and the Class Members, on behalf of themselves,
4 their current and former heirs, executors, administrators, successors, attorneys,
5 legal representatives, and assigns, hereby release and forever discharge the
6 Released Parties from any and all Settled Claims. Lead Plaintiffs and the Class
7 Members, and anyone acting or purporting to act for any of them, are hereby
8 permanently and forever enjoined from prosecuting, attempting to prosecute, or
9 assisting others in the prosecution of the Settled Claims against the Settling
10 Defendants.

11 8. Each of the Settling Defendants, including any and all of their
12 respective successors in interest or assigns, hereby releases and forever
13 discharges any and all Settling Defendants' Claims against the Lead Plaintiffs,
14 any of the Class Members and any of their counsel, including Lead Counsel for
15 the Class and any counsel working under Lead Counsel's direction.

16 9. The Court hereby finds that the proposed Plan of Allocation is a fair
17 and reasonable method to allocate the Net Settlement Fund among Class
18 Members.

19 10. In accordance with 15 U.S.C. § 78u-4(f)(7) and any other
20 applicable law or regulation, any and all claims which are brought by any Person
21 or entity against the Settling Defendants (a) for contribution or indemnification
22 arising out of any Settled Claim, or (b) where the damage to the claimant is
23 measured by reference to the claimant's liability to the Lead Plaintiffs or the
24 Class, are hereby permanently barred and discharged. Any such claims brought
25 by the Settling Defendants against any Person or entity (other than Persons or
26 entities whose liability to Lead Plaintiffs or the Class is extinguished by this
27 Judgment) are likewise permanently barred and discharged. Further, nothing in
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1 the Stipulation shall apply to bar or otherwise affect any claim for insurance
2 coverage by any Settling Defendant.

3 11. The Court finds that all parties and their counsel have complied
4 with each requirement of Rule 11 of the Federal Rules of Civil Procedure as to
5 all proceedings herein.

6 12. Neither this Order and Final Judgment, the Stipulation, nor any of
7 the negotiations, documents or proceedings connected with them shall be:

8 a. referred to or used against the Settling Defendants or against
9 the Lead Plaintiffs or the Class as evidence of wrongdoing by anyone;

10 b. construed against the Settling Defendants or against the Lead
11 Plaintiffs or the Class as an admission or concession that the consideration
12 to be given hereunder represents the amount which could be or would
13 have been recovered after trial;

14 c. construed as, or received in evidence as, an admission,
15 concession or presumption against the Class or any of them, that any of
16 their claims are without merit or that damages recoverable under the
17 Complaint would not have exceeded the Settlement Fund; or

18 d. used or construed as an admission of any fault, liability or
19 wrongdoing by any person or entity, or offered or received in evidence as
20 an admission, concession, presumption or inference against any of the
21 Settling Defendants in any proceeding other than such proceedings as may
22 be necessary to consummate or enforce the Stipulation.

23 13. Exclusive jurisdiction is hereby retained over the Settling
24 Defendants and the Class Members for all matters relating to the Litigation,
25 including the administration, interpretation, effectuation or enforcement of the
26 Stipulation or Settlement and this Order and Final Judgment, and including any
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1 application for fees and expenses incurred in connection with administering and
2 distributing the settlement proceeds to the Class Members.


3 14. Without further order of the Court, the Settling Defendants and
4 Lead Plaintiffs may agree to reasonable extensions of time to carry out any of
5 the provisions of the Stipulation.

6 15. There is no just reason for delay in the entry of this Order and Final
7 Judgment and immediate entry by the Clerk of the Court is directed pursuant to
8 Rule 54(b) of the Federal Rules of Civil Procedure.

9 16. The finality of this Order and Final Judgment shall not be affected,
10 in any manner, by rulings that the Court may make on Lead Plaintiffs' Counsel's
11 application for an award of Attorneys' Fees and Expenses.

12 17. In the event that the Settlement does not become final and effective
13 in accordance with the terms and conditions set forth in the Stipulation, then this
14 Order and Final Judgment shall be rendered null and void and be vacated and the
15 Settlement and all orders entered in connection therewith shall be rendered null
16 and void (except as provided in paragraphs E.1-3., G, L.5-7., M.10-11., and
17 M.13 in the Stipulation), and the parties shall be deemed to have reverted to their
18 respective status prior to the execution of this Stipulation, and they shall proceed
19 in all respects as if the Stipulation had not been executed and the related orders
20 had not been entered, preserving in that event all of their respective claims and
21 defenses in the Litigation, and shall revert to their respective positions in the
22 Litigation.

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24 Dated: February 27, 2015

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26 HON. DAVID O. CARTER
27 UNITED STATES DISTRICT JUDGE
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